

COUNTY OF YORK

MEMORANDUM

DATE: January 5, 2006 (BOS Mtg. 1/17/06)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. UP-688-05, SprintCom, Inc.



ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize a 137-foot self-supporting monopole communications tower with associated ground-mounted equipment located on a portion of the property located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2.

DESCRIPTION

- Property Owner: York County School Board; applicant is owner's lessee
- Location: 300 Dare Road (Route 621)
- Area: 15 acres
- Frontage: Approximately 540 feet on Dare Road
- Utilities: Public water and sewer
- Topography: Flat on the western side sloping down toward the northeast
- 2025 Land Use Map Designation: Medium-Density Residential
- Zoning Classification: RC - Resource Conservation
- Existing Development: Dare Elementary School with associated athletic fields
- Surrounding Development:
 - North: Single family detached home
 - East: York County School Board Office
 - South: Common area for Jacobs Springs subdivision, two single family detached homes, and an apartment building in the Grafton Station apartment complex (across Dare Road)
 - West: Bargain Box thrift store and soccer field
- Proposed Development: 137-foot freestanding monopole communications tower with associated ground-mounted equipment

CONSIDERATIONS/CONCLUSIONS

1. The proposed tower facility consists of a 137-foot monopole with associated equipment shelters. The facility is to be surrounded by an 8-foot high chain link fence, with additional screening across the top to prevent baseballs from going into the facility and landscape screening. Access is to be via a proposed 12-foot wide access road coming off the western side entrance for the elementary school. The proposed tower will replace the existing left field light pole on the rear baseball diamond and is approximately 1200 feet from the Dare Road right-of-way. The closest dwellings are located approximately 240 feet northwest of the proposed tower location on Hudgins Farm Road in the Grafton Branch subdivision. The majority of the parcel consists of the Dare Elementary School; however, the area between the residences and the proposed tower location is heavily wooded. (Copies of photo simulations of the proposed tower provided by the applicant are attached.)
2. The proposed lease area is surrounded by the school, its athletic fields, a large vacant parcel and single-family dwellings on Hudgins Farm Road. The subject parcel is zoned RC (Resource Conservation) with surrounding properties zoned R20 (Medium-density single-family residential) and RMF (Multi-family residential) across Dare Road. A stream runs to the rear of the parcel and a Natural Resources Inventory and Perennial Stream Determination will need to be completed as part of site plan review. If the stream is determined to be perennial, then a 100-foot Resource Protection Area (RPA) buffer will be required landward of the stream and any adjacent wetlands. Installation of the proposed tower and appurtenances within the RPA would require an exception from the York County Chesapeake Bay Board. The Comprehensive Plan designates this area as Medium Density Residential.
3. The monopole will replace the existing athletic field light pole, which supports the lighting fixtures for the baseball field and will move the lights higher and further back than their current location. As the lighting of the field is an important component of the recreational needs of the County's youth sports programming, several concerns have been raised. Musco Lighting, the manufacturer of the lighting system, installed and maintains the manufacturer warranties on the systems (pole and lights). Therefore, I am recommending a condition requiring that a written statement from Musco Lighting be submitted to the County prior to site plan approval detailing that there will be no detrimental effects on Musco Lighting's manufacturer warranty for the lighting system. Also, because the lights will be in a different position than previously, I recommend that a written verification and a lighting drawing from a Musco Lighting representative be submitted before site plan approval showing that the same lighting levels (foot candles) are provided on the field upon completion of the proposed tower. Additionally, because of the activity level at the baseball field, construction of the proposed tower can only occur during times that teams will not be utilizing the lighting systems.
4. The applicant has indicated that existing PCS service in the area is currently limited. Use of existing tower structures was considered; however, no suitable sites

were found that would provide the needed service to the applicant's deficient coverage area. The applicant has therefore submitted this request for a new monopole. The applicant's proposed tower would be a co-location site with space for two additional wireless communications providers.

5. The Federal Aviation Administration (FAA) will analyze the proposed tower to ensure that it will not infringe on air traffic flight patterns. If the FAA requires a permit for the construction of the tower, the applicant will need to provide evidence of FAA approval prior to the County's final approval for construction of the tower. A condition to this effect is included as part of the approving resolution.
6. As a condition of approval, the applicant will be required to submit a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower will not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
7. Although the Telecommunications Act of 1996 did not preempt local zoning authority, localities are somewhat constrained in their ability to deny or delay requests for towers. Such decisions may be enjoined or overturned by the FCC or federal courts if the intent or the effect of the decision is to discriminate between types of communications service providers. They can also be overturned if the decision is not reached within a reasonable period of time, if the denial is unreasonable, or if the denial is based on public health concerns relating to radio frequency emissions. Additionally, the Act places an obligation upon localities to assist the telecommunications providers in finding a facility somewhere within the footprint (coverage area).

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its December 14th meeting and conducted a public hearing at which a representative from Peninsula Hardwood Mulch spoke against the application because of its proximity to the tower located on the Hardwood Mulch property and his belief that the applicant should be required to co-locate on that existing tower. In the ensuing discussion the applicant's representative indicated that SprintCom had considered the Peninsula Hardwood Mulch tower but that it did not adequately meet SprintCom's needs. The Commission voted 6:1 (Mr. Abel dissenting) to recommend approval of the 137-foot self-supporting monopole communications tower with associated ground-mounted equipment. Mr. Abel dissented because he was concerned about the multiplicity of tower sites in the County. (For more details please see the attached minutes excerpts.)

COUNTY ADMINISTRATOR RECOMMENDATION

Land Use Implementation Strategy #30 of the Comprehensive Plan discourages location of telecommunications towers in residential neighborhoods "unless there is no other practical option." The applicant has indicated that alternative locations with existing

support structures were considered in establishing facilities to meet the need for expanded wireless coverage in the area. However, as there were no existing facilities available that satisfied coverage criteria, a new monopole facility at the proposed location was deemed necessary to meet customer demand for services. In cases where location of such facilities in residential areas is unavoidable, a balance between community aesthetic goals and the wireless industry requirements must be achieved.

The Comprehensive Plan further states that such structures “should blend into the surrounding environment when possible.” The proposed tower is to be located in the immediate area of a nonresidential use, namely, the existing elementary school. The tower is proposed in an area of relatively sparse residential development, and the nearest dwelling is located approximately 240 feet from the site. The facility’s obtrusiveness will be reduced somewhat given the location of the facility to the rear of the existing elementary school near an area that is wooded and also its dual use function (communications and athletic field lighting).

Although such communications structures may not be appropriate elsewhere in the County’s residential areas, I believe that the particular characteristics of the proposed tower site can afford the opportunity to expand telecommunications coverage without sacrificing aesthetic goals. Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve the application subject to the conditions contained in proposed Resolution R06-10.

Carter/3337:EWA

Attachments

- Zoning Map
- Sketch Plan
- Photo-simulations of Proposed Tower
- Maps showing tower coverage
- Verifiable Evidence Statement and Narrative Description of Tower Locations
- Design Criteria
- Excerpts – Planning Commission Meeting Minutes
- Proposed Resolution R06-10